



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

003

SEP 9 1986

OFFICE OF
PESTICIDES AND COPEL QUESTA

Ms. Toni K. Allen
Law Offices of
Piper & Marbury
888 Sixteenth Street, N.W.
Washington, D.C. 20006

EPA Region 5 Records Ctr.



246160

Dear Ms. Allen:

This is in response to your August 12, 1986, letter, which expressed a concern on the part of the Utility Solid Waste Activities Group (USWAG) about recent interpretations under the TSCA rules for polychlorinated biphenyls (PCBs). Specifically, your letter raised the question whether there had been a change in the Agency's position regarding the disposal of drained carcasses from mineral oil transformers which, prior to being drained, contained fluid contaminated with PCBs in concentrations below 500 ppm.

As you point out in your letter, EPA regulations state that the disposal of drained PCB-contaminated equipment (including mineral oil transformers) is not regulated by the PCB disposal regulations at 40 CFR §761.60. This has been the case since the promulgation of the "PCB Ban Rule" on May 31, 1979 (44 Federal Register 31547). In the proposed Ban Rule (43 Federal Register 24802 et seq., June 7, 1978), EPA explained that "unregulated" disposal of this equipment would allow it to be sold for salvage. While EPA did not propose any restrictions on salvage operations, the Agency did solicit comments on salvage practices and the need for specific regulatory controls on salvaging to prevent undue environmental exposure to PCBs. After considering the comments and testimony received on this issue, EPA elected not to alter the proposal. The Agency concluded that because of the low concentration PCBs involved (<500 ppm), and because of the benefits derived from reclaiming valuable metal resources, the unrestricted salvaging of drained carcasses would not present an unreasonable risk. (See March, 1979, Support Document/Voluntary Environmental Impact Statement for this rulemaking). EPA has consistently followed the position that drained mineral oil (<500 ppm PCBs) carcasses can be disposed of

as scrap. (See The PCB Regulations Under TSCA: Over 100 Questions and Answers to Help You Meet These Requirements, August, 1983). Of course, the option to dispose of drained equipment as salvage is available only for drained carcasses which previously contained PCBs below 500 ppm; the salvage option is not available for "PCB Transformers" with PCB concentrations above 500 ppm.

Recently, confusion has arisen as to whether other aspects of the PCB regulations affect the salvaging of PCB Contaminated equipment. We note, for example, that while the PCB regulations do not impose specific controls on salvaging operations, scrapping practices which result in spills and other uncontrolled discharges of PCBs are regulated as improper disposal, and subject the scrapper to clean-up requirements under the PCB disposal regulations. The PCB containing fluids which have not been drained from the carcasses are always regulated as PCB wastes under these regulations.

Moreover, because salvaging involves the sale of the drained equipment to one or more scrap dealers, the question arises as to the applicability of the TSCA §6(e)(3) ban on the distribution in commerce of PCBs and PCB Items. One could construe the sale of drained equipment to a scrap dealer as distribution in commerce (and therefore prohibited without an exemption), but such a construction would not comport with the intent reflected in the Ban Rule record to treat salvaging of such equipment as a method of "disposal." Rather, each of the transactions involved in ultimately scrapping such equipment is exempted from the ban on distribution in commerce because it is either disposal or distribution in commerce for purposes of disposal. (40 CFR §761.20(c)(2), 761.20(c)(4)).

However, the regulatory definition of "disposal" imposes some limitations on the salvaging practices which may be engaged in by scrappers without an exemption from the distribution in commerce ban. To qualify as disposal, the practice must be one which would "... otherwise complete or terminate the useful life of PCBs or PCB Items." (40 CFR §761.3). Indeed, "unregulated" disposal of drained carcasses means only that disposal in approved incinerators or chemical waste landfills is not required; it does not free the equipment (or its components) from the requirement that disposal terminate the useful life of the PCB equipment. Salvaging aimed at reclamation of the metal resources found in the case and coil generally constitutes disposal, because the PCBs are destroyed by the high temperatures employed in the reclamation process. However, where salvaging consists of disassembling the drained equipment to obtain parts intended for reuse in other equipment, the useful life of the equipment has not been fully terminated. So, the sale of any components containing detectable levels of PCBs, without an exemption, is prohibited for distribution in commerce of PCBs. Likewise, while typical metals reclamation methods can be expected to destroy residual PCBs, the sale of any metals

remaining contaminated after reclamation also is prohibited without an exemption.

In sum, salvaging of <500 ppm drained equipment is unregulated to the extent that: (1) Scrapping practices do not result in spills or uncontrolled discharges of PCBs, and (2) any PCB-contaminated components are not reintroduced into commerce. Contaminated transformer components cannot be resold as parts to anyone without an exemption from the ban on distribution in commerce. Also, equipment that is rebuilt using contaminated parts from a salvaged carcass cannot be sold to another without an exemption unless the rebuilt equipment can be reclassified as "non-PCB."

I have enclosed for your reference a document entitled "Salvage Options for Drained Carcasses." This document summarizes in graphic form the relationship between salvaging and other activities regulated under the PCB regulations. Should you have additional questions, please contact Suzanne Rudzinski on 382-3935.

Sincerely,



John A. Moore
Assistant Administrator
for Pesticides and
Toxic Substances

Enclosure